HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 21654 OF 2006

Between:

Smt. Sreerangam Padmini

..... Petitioner

AND

The Government of Andhra Pradesh,
Rep. by its Secretary, Department of
Consumer Affairs, Hyderabad & another

.....Respondents

:: O R D E R::

Counsel for the Petitioner : Dr. P.B. Vijay Kumar

Dated: 18.10.2006

Per G.S.SINGHVI, CJ

Whether the recommendations made by the selection committee create a right in favour of the candidate to be appointed against the advertised post and he/she can seek a mandamus for his/her appointment is the question which arises for determination in this petition filed under Article 226 of the Constitution of India.

The petitioner is practicing as an Advocate at Visakhapatnam. In response to the notification issued by the Registrar of Andhra Pradesh State Consumer Disputes Redressal Commission (for short 'the State Commission'), the petitioner applied for appointment as Lady Member of the District Forum. She appeared in the written test held on 25.4.2005 and passed the same. Thereafter, she was interviewed by the selection committee. The petitioner claims that even though her name was recommended by the selection committee and Smt. Sriram Sujatha, who was placed above her in the selection list, declined the offer of appointment, the respondents have failed to appoint her against the advertised post and, in this manner, her fundamental right to equality guaranteed under Article 14 of the Constitution has been violated.

Dr.P.B.Vijaya Kumar, learned counsel argued that by virtue of the recommendations made by the selection committee, the petitioner has acquired a vested right to be appointed against the vacancy of Lady Member and, therefore, a mandamus be issued to the respondents to issue order of her appointment. He further argued that failure of the concerned authority to appoint the

petitioner as Lady Member of the District Forum has resulted in violation of her fundamental right to equality guaranteed under Articles 14 and 16 of the Constitution.

In our opinion, there is no substance in the argument of the learned counsel and the writ petition is liable to be dismissed summarily.

The petitioner has neither produced copy of the notification/advertisement issued by the State Commission pursuant to which she had applied for appointment as Lady Member of the District Forum so as to enable the Court to examine the tenability of her claim to be appointed against the advertised post nor any material has been placed on record to show that the selection committee had recommended her name for appointment against the advertised post. Therefore, the bald assertion contained in the affidavit filed by her cannot be acted upon for issue of a direction to the respondents to appoint her against the advertised post.

In **State of Haryana v. Subash Chander**[1], the Supreme Court unequivocally ruled that recommendations made by the selection committee do not create a right in favour of the selected candidate to be appointed against the advertised post. The same principle was reiterated in **Jatinder Kumar v. State of Punjab**[2] and **Shankarsan Dash v. Union of India**[3]**.** In the last mentioned decision, the Constitution Bench of the Supreme Court laid down the following propositions:

> "It cannot be said that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire

an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted.

The process of final selection has to be closed at some stage and when a decision in this regard is accordingly taken and the process for further allotment to any vacancy arising later is closed, it is not material if in pursuance of a decision already taken before closing the process of final selection, the formal appointments are concluded later. What is relevant is to see as to when the process of final selection is closed. Mere completing the formalities later cannot furnish any ground to the candidate who is not selected to claim discrimination."

In view of the above legal position, the petitioner's claim to be appointed as Lady Member of the District Forum is liable to be rejected.

There is another reason for declining relief to the petitioner. She is not shown to have made any representation or served notice of demand for justice, which constitutes a condition precedent for entertaining a petition filed for issue of a writ, order or direction in the nature of mandamus – **Kamini Kumar v. State of West Bengal** (AIR 1972 SC 2060) and **Amrit Lal Berry v. Collector, C.E.C. Revenue** (AIR 1975 SC 538).

For the reasons stated above, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.27458 of 2006 filed by the petitioner for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

18.10.2006

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[1] AIR 1973 SC 2216

[2] AIR 1984 SC 1850

[3] AIR 1991 SC 1612